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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11
12 In the Matter of the Accusation Against:

13 **RICKY MICHAEL HEIM**
3660 Eagle Street, Apt. M
14 San Diego, CA 92103

15 **Registered Nurse License No. 755229**

16 Respondent.

Case No. *2013-779*

ACCUSATION

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about July 20, 2009, the Board of Registered Nursing issued Registered Nurse
24 License No. 755229 to Ricky Michael Heim (Respondent). The Board of Registered Nursing was
25 in full force and effect at all times relevant to the charges brought herein and will expire on July
26 31, 2013, unless renewed.

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(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

REGULATORY PROVISIONS

9. California Code of Regulations, title 16, section 1443, states:

As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5.

10. California Code of Regulations, title 16, section 1443.5 states:

A registered nurse shall be considered to be competent when he/she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

(1) Formulates a nursing diagnosis through observation of the client's physical condition and behavior, and through interpretation of information obtained from the client and others, including the health team.

(2) Formulates a care plan, in collaboration with the client, which ensures that direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and for disease prevention and restorative measures.

(3) Performs skills essential to the kind of nursing action to be taken, explains the health treatment to the client and family and teaches the client and family how to care for the client's health needs.

(4) Delegates tasks to subordinates based on the legal scopes of practice of the subordinates and on the preparation and capability needed in the tasks to be delegated, and effectively supervises nursing care being given by subordinates.

(5) Evaluates the effectiveness of the care plan through observation of the client's physical condition and behavior, signs and symptoms of illness, and reactions to treatment and through communication with the client and health team members, and modifies the plan as needed.

(6) Acts as the client's advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities which are against the interests or wishes of the client, and by giving the client the opportunity to make informed decisions about health care before it is provided.

COST RECOVERY

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

DRUGS

12. Fentanyl, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (c)(8), and a dangerous drug pursuant to Business and Professions Code section 4022.

13. Versed, a trade name for Midazolam, is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (c)(21) and a dangerous drug pursuant to Business and Professions Code section 4022.

FACTUAL ALLEGATIONS

14. Respondent was employed as a registered nurse at the University of California San Diego Medical Center (UCSD Medical Center).

15. Patient 8595: This patient was at UCSD Medical Center on July 23, 2010 for a flexible bronchoscopy with airway evaluation. On October 18, 2010, this patient was not hospitalized at UCSD Medical Center. There were no doctor orders for medications or Medication Administration Records on October 18, 2010 because this patient was not in the hospital that day. On October 18, 2010, Respondent removed 100 mcg of Fentanyl for this patient from the Pyxis¹ machine. Respondent did not document administration, wastage or return of the medication. Therefore, 100 mcg of Fentanyl is unaccounted for.

¹ Pyxis is a trade name for the automated single-unit dose medication dispensing system that records information such as patient name, physician orders, date and time medication was withdrawn, and the name of the licensed individual who withdrew and administered the medication. In the event that only portions of the withdrawn medication is given to the patient, the portions not given to the patient are referred to as wastage. This waste must be witnessed by another authorized user and is also recorded by the Pyxis machine.

16. Patient 2098: On September 2, 2010, Respondent withdrew from the Pyxis for this patient 8 mg of Versed at 1248 hours. Respondent returned 4 mg of Versed at 1433 hours and documented that he administered the remaining 4 mg of Versed to the patient. However, the dictated doctor's order indicates 3 mg of Versed was given to the patient. Therefore, Respondent administered one dose of 1 mg of Versed without a doctor's order.

17. Patient 8573: On November 24, 2010 at 1522 hours, Respondent withdrew from the Pyxis for this patient 100 mcg of Fentanyl. Respondent documented administration of 75 mcg of Fentanyl. The dictated procedure note also documents that 75 mcg of Fentanyl was given to the patient during the procedure. Respondent did not document administration or wastage for the remaining 25 mcg of Fentanyl. Therefore, 25 mcg of Fentanyl is unaccounted for.

FIRST CAUSE FOR DISCIPLINE

(Unlawfully Obtain Controlled Substances)

18. Respondent is subject to disciplinary action for unprofessional conduct under section 2762(a) in that while employed as a registered nurse at UCSD Medical Center, Respondent unlawfully obtained and possessed controlled substances, as is more particularly set forth in paragraphs 14 through 17 above, which are incorporated herein as though set forth in full.

SECOND CAUSE FOR DISCIPLINE

(Falsify or Make Grossly Incorrect or Inconsistent Entries)

19. Respondent is subject to disciplinary action for unprofessional conduct under Code section 2762(e) for falsifying or making grossly incorrect, inconsistent and/or unintelligible entries in the hospital records of UCSD Medical Center by withdrawing medication, charging the withdrawal to patients who did not receive the drugs or for whom Respondent did not document administration or wastage of the drug as is more particularly set forth in paragraphs 14 through 17 above, which are incorporated herein as though set forth in full.

THIRD CAUSE FOR DISCIPLINE

(Incompetence)

20. Respondent is subject to disciplinary action for unprofessional conduct under section 2761(a)(1) of the Code in that while employed as a registered nurse at UCSD Medical Center,

1 Respondent failed to exercise the degree of learning, skill, care and experience ordinarily
2 possessed and exercised by a competent registered nurse, when he acted outside the scope of his
3 duties as a registered nurse by administering medication without a physician order, as is forth in
4 paragraphs 14 through 17 above, which are incorporated herein as though set forth in full.

5 **FOURTH CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct)**

7 21. Respondent is subject to disciplinary action under section 2761(a) of the Code in that
8 Respondent exhibited general unprofessional conduct, when he failed to account for medications
9 and acted outside the scope of his duties, as set forth in paragraphs 14 through 17, above, which
10 are incorporated herein as though set forth in full.

11 **DISCIPLINARY CONSIDERATIONS**

12 22. To determine the degree of discipline, if any, to be imposed on Respondent,
13 Complainant alleges that prior to licensure, Respondent was convicted in 1996 in the State of
14 Arizona for driving under the influence, a conviction that he disclosed on his application for
15 licensure.

16 **PRAYER**

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
18 and that following the hearing, the Board of Registered Nursing issue a decision:


19 1. Revoking or suspending Board of Registered Nursing Number 755229, issued to
20 Ricky Michael Heim;

21 2. Ordering Ricky Michael Heim to pay the Board of Registered Nursing the reasonable
22 costs of the investigation and enforcement of this case, pursuant to Business and Professions
23 Code section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: March 18, 2013


for LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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